

**RULES OF THE DISTRICT COURT OF  
THE TENTH JUDICIAL DISTRICT**

**EFFECTIVE NOVEMBER 15, 2000**

**SCOPE AND EFFECTIVE DATE**

These rules for the district court of the Tenth Judicial District shall become effective upon approval by the Supreme Court and publication in the Nebraska Advance Sheets and shall supplement the Uniform District Court Rules of Practice and Procedure adopted by the Supreme Court.

Adopted effective November 15, 2000.

**RULE 10-1**

**TERM OF COURT**

Two terms of Court will be held in each district court in the Tenth Judicial District. The Spring Term will commence on a date in March and the Fall Term will commence on a date in August or September, as determined by the Court. On the opening day of the term, a docket call may be held to set cases for trial or further hearing. Counsel will be notified of the date and time for the docket call in each county and will be required to attend the same unless excused in writing by the Court.

Adopted effective November 15, 2000.

**RULE 10-2**

**CONTINUANCES**

In addition to the requirements set forth in Neb. Rev. Stat. § 25-1148 (Reissue 1995), a Motion for Continuance shall set forth whether the opposing party has an objection. If the opposing party does not object to the continuance, the party filing the motion shall be responsible for arranging, as soon as practical, a new date and time with all opposing parties and the Court. If the opposing party does object, it is the responsibility of the party filing the motion to set the motion for a continuance hearing. Except for exigent circumstances, a motion for a continuance shall be made at least three (3) working days prior to the hearing for which the continuance is requested.

Adopted effective November 15, 2000.

### **RULE 10-3**

#### **JOURNAL ENTRIES**

It shall be the duty of the party directed by the Court to promptly prepare a proper journal entry, order, judgment, or decree. The proposed journal entry shall be submitted to opposing counsel for approval as to form and submitted to the Court for its signature within 10 days after entry of the decision or order. In criminal matters, it is always the responsibility of the County Attorney to submit the same.

Adopted effective November 15, 2000.

### **RULE 10-4**

#### **DISSOLUTION ACTIONS**

A. Property Statements: Where the action involves a division of property by the Court, each party shall file a property statement setting forth assets, liabilities, and any other information concerning property germane to the case at bar. The party filing the action shall have 30 days from the date of filing to prepare and file a property statement, furnishing a copy to the opposing party. The responding party shall then complete the property statement so filed by adding to it any additional property and that party's estimates of value of all property listed. The responding party's additions must be filed and a copy served upon the initiating party within 30 days after the filing of the initial statement. The property statements shall be in the format of Exhibit A attached hereto. When property division is contested at final hearing, the parties shall prepare a joint property statement for use as an exhibit. Either party may receive an extension of time for filing or completing property statements on written motion and good cause shown. Except by agreement of the parties or order of the Court, amendments to the property statement shall not be permitted unless filed at least 10 days prior to trial.

B. Temporary Hearing: Unless otherwise ordered, temporary applications shall be governed by Unif. Dist. Ct. R. of Prac. 4(B) (rev. 2000). Except where a party appears pro se and live testimony is required, evidence shall be submitted by affidavits, which shall be exchanged by the parties at least forty-eight (48) hours prior to the hearing. Responsive affidavits shall be exchanged at least twenty-four (24) hours prior to the hearing. Except for good cause shown, no more than five (5) affidavits, or alternatively, no more than twenty (20) affidavit pages (excluding exhibits attached thereto), will be considered by the Court at the time of the temporary hearing.

C. Ex Parte Custody Orders: No ex parte order shall be entered in a domestic relations case without one (1) or more supporting affidavits from a party or his or her witnesses. Except for good cause shown, no ex parte temporary order shall be entered in a pending case if the opposing party is represented by counsel or a guardian ad litem has been

appointed. If an ex parte order is issued, it shall be served upon the opposing party or counsel forthwith, and a temporary hearing shall be held forthwith.

D. Contested Custody: If an issue concerning custody of a minor child exists, the Court may appoint a guardian ad litem for the minor(s). In such event, the Court will order an initial guardian ad litem's deposit of fees to be paid by the parties into the Court within a specified time period. If no time period is specified by the Court, it shall be 20 days. Initial fees shall be allocated between the parties in the discretion of the Court, subject to modification and the assessment of additional fees at the time of the final hearing. Those claiming indigent status may apply to the Court for a waiver of such fee assessment. Such an application must be accompanied by an affidavit establishing poverty. When a guardian ad litem makes application for payment of fees in a case involving a claim of indigence, copies of the fee application and notice of hearing shall be served upon the County Attorney, who may appear at the hearing to object to payment of the same.

E. Final Hearings/Pretrial Conferences: Final hearings in all dissolution cases shall be set for one (1) hour unless notified in writing by either party that the matter will take more than one hour. If the trial will be in excess of one (1) hour, the Court shall set the matter for a pretrial conference and notify the parties of the date and time. No case will be docketed for final hearing or pretrial until at least one party has filed a property statement.

F. Every Decree shall contain the Social Security numbers of the parties and the minor children. Vehicle identification numbers shall also be included. Real estate shall be described by legal description as opposed to street address.

G. Leaving the State: Every order for child custody, temporary or permanent, shall contain language substantially as follows:

A party exercising custody of a minor child is ordered not to move the child outside the State of Nebraska. Anyone intending such a move must first:

- (1) Make written application to the Court, including proposed changes in the visitation schedule and costs of transportation;
- (2) Give notice of the application and hearing to the other party; and
- (3) Establish that the move is in the child's best interests.

H. Reduction in Support for Periods of Visitation: Whenever a temporary or permanent child support order provides for a reduction in child support while a non-custodial parent has possession of the child or children, the following procedure shall be utilized:

- (1) The order shall clearly state the time period and percentage that the non-custodial parent's child support obligation shall be reduced.

(2) The reduction shall be automatically deducted by the clerk of the court unless the custodial parent submits an affidavit within thirty (30) days after the child or children return to him or her stating that the non-custodial parent was not in the possession of the child or children for the requisite time period. If such an affidavit is filed, a hearing shall be held to determine whether the reduction shall be allowed.

(3) Failure of the custodial parent to file such an affidavit within thirty (30) days shall constitute a waiver of objection to the reduction of child support.

I. All parties to a dissolution action involving minor children shall attend and successfully complete a court-approved parenting education course. Certificates evidencing completion of the course shall be filed in the court file. No case shall be delayed longer than six (6) months to secure compliance. This requirement may be waived on good cause shown.

Adopted effective November 15, 2000.

## **RULE 10-5**

### **TELEPHONIC CONFERENCE HEARINGS**

#### **A. Request for Telephonic Conference Hearing:**

(1) No matter will be heard by telephonic conference call unless all parties consent to such telephonically held hearing. A party who arranges for a telephone conference will be considered to have certified that such party has obtained the prior consent of all parties who are required or desire to participate in the hearing.

(2) Telephone conferences requested by the moving party shall be arranged prior to the filing of the motion, and the notice of hearing shall clearly state that the hearing will be held by telephonic conference call. Telephone conferences requested by a party other than the moving party shall be arranged three (3) days prior to the hearing, and notice shall be filed by the party requesting the hearing, together with proof of service thereof on all opposing parties.

B. Not Available When Nonwaivable Verbatim Record Involved: Although in all instances a written journal entry of the decision of the Court shall be made, no verbatim record will be made of any telephonically held hearing. Accordingly, no such hearing may be scheduled for any proceeding requiring a nonwaivable verbatim record under the provisions of Neb. Ct. R. of Prac. 5A(1) (rev. 2000).

C. Waiver of Other Record: Any party consenting to a telephonic hearing shall be deemed to have waived the verbatim record required only upon request under the

provisions of Neb. Ct. R. of Prac. 5A(2) (rev. 2000). Conducting the hearing shall constitute the waiver of such optional verbatim record by the Court.

**D. Initiation of Telephonic Conference Call:**

(1) The party requesting the telephonic conference call shall be responsible for initiating the call and shall provide for all expenses of the call.

(2) The party initiating the call shall utilize appropriate equipment and systems to ensure that all persons participating have adequate quality and volume. If the Court determines that the sound quality or volume is insufficient, the Court may require the party initiating the call to utilize other means to complete the hearing by telephone.

Adopted effective November 15, 2000.

**RULE 10-6**

**JURY TRIALS**

A. Availability of Counsel During Jury Deliberations: Counsel will be available on short notice personally or by telephone, as ordered by the Court, during jury deliberations in the event of a verdict or a question by the jury. The clerk or bailiff should be kept informed of where counsel will be at all times when the jury is deliberating, unless excused by the Court.

B. Absence of Counsel on Receipt of Verdict: In civil cases, the Court will not deem it necessary that any party or any counsel be present or represented when the jury returns to the courtroom with its verdict.

Adopted effective November 15, 2000.

**RULE 10-7**

**CORRESPONDENCE WITH THE COURT,  
STAMPED ENVELOPE, SIGNED COPIES**

All correspondence with the Court regarding pending litigation shall refer to the subject case by case title, number, and county, and a copy of such correspondent shall be mailed to opposing counsel. If the correspondence includes pleadings, journal entries, orders, or decrees to be transmitted to the clerk or counsel, pre-addressed stamped envelopes shall be enclosed therewith.

Adopted effective November 15, 2000.

## **RULE 10-8**

### **COURT FILES**

Attorneys and title examiners may check out court files from the clerk's office for not more than three (3) working days, including the day of checkout. A receipt shall be signed for each file. Failure to return a file within such time or as soon as required by the Court may revoke the checkout privilege of the person or firm signing for the file. The privilege shall not be restored except as directed by the Court. Other persons may receive copies of public court records or files for a copying fee to be determined by the clerk.

Adopted effective November 15, 2000.

## **RULE 10-9**

### **SETTLEMENT EFFORTS REQUIRED**

To curtail undue delay in the administration of justice, the Court shall not consider any motion relating to discovery unless the moving party makes a written showing that, after consultation with opposing counsel and reasonable efforts to resolve differences, counsel are unable to reach an accord. As used herein, "counsel" includes parties who are acting pro se.

Adopted effective November 15, 2000.

## **RULE 10-10**

### **MOTIONS AND OTHER FILINGS**

As used in these rules, the word "motion" includes demurrers, special appearances, and all requests for an order from the Court. Unless otherwise authorized by the Court, all motions, except requests for continuances, shall be filed with the clerk not less than five (5) working days prior to the hearing. At the time of filing, the moving party shall obtain a date for hearing and provide notice to the opposing party.

Adopted effective November 15, 2000.

## **RULE 10-11**

### **WITHDRAWAL OF COUNSEL**

In addition to the requirements of the Uniform District Court Rules, counsel shall be permitted to withdraw from a matter upon filing an affidavit which

A. recites that the motion to withdraw has been served upon the client and all parties of record and

B. provides the client's last known mailing address.

Adopted effective November 15, 2000.

## **RULE 10-12**

### **STIPULATIONS**

All stipulations shall be made in open court and recorded by the reporter or reduced to writing and signed by the parties or counsel and filed with the Court.

Adopted effective November 15, 2000.

## **RULE 10-13**

### **COURTROOM DECORUM**

All attorneys and pro se parties shall comply with the Uniform District Court Rules regarding courtroom decorum, conduct, and ordinary business attire. Ordinary business attire for male attorneys shall include a tie.

Adopted effective November 15, 2000.

## **RULE 10-14**

### **SUMMARY JUDGMENTS**

Both the moving party and opposing party shall submit a brief in support of or opposition to a motion for summary judgment. The brief of the moving party shall contain a separate statement of each material fact supporting the contention that there is no genuine issue to be tried and as to each shall identify the specific document, discovery response, or deposition testimony (by page and line) which is claimed to establish the same.

Adopted effective November 15, 2000.

## **RULE 10-15**

### **CASE PROGRESSION**

In the months of February and August of each year, or when otherwise directed by the Court, the clerk shall prepare a list of pending civil cases in which no action has been taken for six (6) months prior thereto. An order shall then be entered requiring that cause be shown, within thirty (30) days from entry of order, as to why said case should not be dismissed for lack of prosecution. Notice of said order shall be sent to all attorneys of record and pro se parties. If good cause is not shown, such cases shall be dismissed.

Adopted effective November 15, 2000.

## **RULE 10-16**

### **LAW LIBRARY**

Persons who are not practicing attorneys may use a county law library only with Court approval. No books shall be removed from a library unless signed for in the office of the clerk or other custodian. All books must be returned to the library within one (1) week from the date taken and returned to their proper places by library users. The bar association of each county shall select one or more of its members to advise and consult with the Court on matters pertaining to library maintenance and regulation for that county. Additional library rules may be ordered by the Court and conspicuously posted in the office of the clerk and library.

Adopted effective November 15, 2000.



## **CRIMINAL CASES**

### **RULE 10-17**

#### **CRIMINAL COMPLAINTS**

An Information in a criminal case shall have noted thereon the statute under which each count of the complaint is brought, the class of offense, and the penalty for the same. Except for good cause shown, an Information shall be filed within thirty (30) days after bind over from county court or the case will be dismissed without prejudice.

Adopted effective November 15, 2000.

### **RULE 10-18**

#### **MOTIONS AND HEARINGS**

A. Except as otherwise provided by law or order of the Court, all motions shall be in writing and filed within ten (10) days of oral notification of a party's intent to file the same. In the absence of such oral notification the motion shall be filed within five (5) days of the requested hearing, unless otherwise ordered by the Court.

B. At the time any such motion is filed, counsel shall obtain a hearing date from the bailiff and provide a written notice of hearing, unless the same is noted in a previous order. A notice of hearing shall be required for each such motion, even if additional motions are scheduled for hearing in the same case. The notice of hearing shall be mailed by regular U.S. mail, postage prepaid, or personally delivered to opposing counsel or a pro se defendant at least five (5) working days prior to said hearing.

C. Hearings on motions to suppress evidence and matters requiring more than five (5) days notice shall be set as designated by the Court, and a notice of hearing shall be provided to counsel or a pro se defendant as set forth above.

D. In criminal cases, journalizing shall always be the responsibility of the County Attorney.

Adopted effective November 15, 2000.

## **RULE 10-19**

### **TRIALS AND CONTINUANCES**

A. The Court should be advised of jury cases which are ready for trial at the opening of the term. Advance planning should be made by counsel to set jury trials at the docket call.

B. No criminal case set for trial will be continued or taken out of order unless a written motion for a continuance, supported by sufficient affidavits, is granted by the Court. If the motion is based upon the want of testimony by an absent witness, the affidavit shall state the substance of the witness' testimony and relate efforts which have been made to secure such testimony.

Adopted effective November 15, 2000.

## **RULE 10-20**

### **DISMISSAL OF CRIMINAL APPEALS**

A. In cases where a penalty of confinement has been ordered by the County Court, no appeal shall be dismissed upon the motion of the defendant unless he or she appears personally before the District Court to request such dismissal.

B. In cases where a fine has been imposed by the County Court, no appeal shall be dismissed upon the motion of the defendant unless the defendant appears personally before the District Court to request such dismissal and a showing is made that all fines and costs have been paid.

Adopted effective November 15, 2000.

## **RULE 10-21**

### **PAYMENT OF COURT-APPOINTED COUNSEL**

Court-appointed counsel shall be paid an hourly fee established by the Court and kept on file with the clerk. Before court-appointed counsel's claim for payment is allowed, such attorney shall file a written motion for fees, positively verified, itemizing the time and expenses spent on the case. All motions for fees shall be served on the County Attorney.

Adopted effective November 15, 2000.

Exhibit A  
PROPERTY STATEMENT

\_\_\_\_\_ vs. \_\_\_\_\_

Social Security # \_\_\_\_\_ Social Security # \_\_\_\_\_

CASE NO. \_\_\_\_\_

ASSETS		POSSESSION OF H OR W	H'S PRESENT VALUE	W'S PRESENT VALUE
A.	HOUSEHOLD FURNISHINGS AND EQUIPMENT			
1.	_____	_____	\$ _____	\$ _____
2.	_____	_____	\$ _____	\$ _____
3.	_____	_____	\$ _____	\$ _____
4.	_____	_____	\$ _____	\$ _____
5.	_____	_____	\$ _____	\$ _____
6.	_____	_____	\$ _____	\$ _____
7.	_____	_____	\$ _____	\$ _____
8.	_____	_____	\$ _____	\$ _____
9.	_____	_____	\$ _____	\$ _____
10.	_____	_____	\$ _____	\$ _____
11.	_____	_____	\$ _____	\$ _____
12.	_____	_____	\$ _____	\$ _____
13.	_____	_____	\$ _____	\$ _____
14.	_____	_____	\$ _____	\$ _____
15.	_____	_____	\$ _____	\$ _____
16.	_____	_____	\$ _____	\$ _____
17.	_____	_____	\$ _____	\$ _____
18.	_____	_____	\$ _____	\$ _____
19.	_____	_____	\$ _____	\$ _____
20.	_____	_____	\$ _____	\$ _____

A.	CHECKING AND SAVINGS ACCOUNTS (MUST INCLUDE ACCOUNT NUMBERS)	POSSESSION OF H OR W	H'S PRESENT VALUE	W'S PRESENT VALUE
1.	_____ ACCOUNT # _____	_____	\$ _____	\$ _____
2.	_____ ACCOUNT # _____	_____	\$ _____	\$ _____
3.	_____ ACCOUNT # _____	_____	\$ _____	\$ _____
4.	_____ ACCOUNT # _____	_____	\$ _____	\$ _____
5.	_____ ACCOUNT # _____	_____	\$ _____	\$ _____
C.	AUTOMOBILES (MUST INCLUDE VIN #'S)	POSSESSION OF H OR W	H'S PRESENT VALUE	W'S PRESENT VALUE
1.	_____ VIN # _____	_____	\$ _____	\$ _____
2.	_____ VIN # _____	_____	\$ _____	\$ _____
3.	_____ VIN # _____	_____	\$ _____	\$ _____
4.	_____ VIN # _____	_____	\$ _____	\$ _____
5.	_____ VIN # _____	_____	\$ _____	\$ _____
D.	FARM OR BUSINESS EQUIPMENT, INVENTORY AND SUPPLIES	POSSESSION OF H OR W	H'S PRESENT VALUE	W'S PRESENT VALUE
1.	_____	_____	\$ _____	\$ _____
2.	_____	_____	\$ _____	\$ _____
3.	_____	_____	\$ _____	\$ _____
4.	_____	_____	\$ _____	\$ _____
5.	_____	_____	\$ _____	\$ _____

A.	REAL ESTATE (MUST INCLUDE LEGAL DESCRIPTION)	POSSESSION OF H OR W	H'S PRESENT VALUE	W'S PRESENT VALUE
1.	_____	_____	\$_____	\$_____
2.	_____	_____	\$_____	\$_____

A.	LIFE INSURANCE AND RETIREMENT PLANS	OWNED BY H OR W	VESTED OR UNVESTED	H'S PRESENT VALUE	W'S PRESENT VALUE
1.	_____	_____	_____	\$_____	\$_____
2.	_____	_____	_____	\$_____	\$_____
3.	_____	_____	_____	\$_____	\$_____
4.	_____	_____	_____	\$_____	\$_____

B.	MISCELLANEOUS	POSSESSION OF H OR W	H'S PRESENT VALUE	W'S PRESENT VALUE
1.	_____	_____	\$_____	\$_____
2.	_____	_____	\$_____	\$_____
3.	_____	_____	\$_____	\$_____

**LIABILITIES**

C.	MORTGAGES OR CONTRACTS ON REAL ESTATE	LIEN ON PROPERTY NO.	H'S PRESENT VALUE	W'S PRESENT VALUE
1.	_____	_____	\$_____	\$_____
2.	_____	_____	\$_____	\$_____
3.	_____	_____	\$_____	\$_____
4.	_____	_____	\$_____	\$_____

I.	SECURED CREDITORS (DEBTS)	LIEN ON PROPERTY NO.	H'S PRESENT VALUE	W'S PRESENT VALUE
1.			\$	\$
2.			\$	\$
3.			\$	\$
4.			\$	\$
5.			\$	\$
6.			\$	\$
7.			\$	\$
J.	UNSECURED CREDITORS (DEBTS)	PURPOSE	H'S PRESENT VALUE	W'S PRESENT VALUE
1.			\$	\$
2.			\$	\$
3.			\$	\$
4.			\$	\$
5.			\$	\$
6.			\$	\$
7.			\$	\$
8.			\$	\$
9.			\$	\$
10.			\$	\$
K.	ASSETS OF HUSBAND ON DATE OF THIS MARRIAGE		H'S VALUE	W'S VALUE
1.			\$	\$
2.			\$	\$
3.			\$	\$
4.			\$	\$
5.			\$	\$

L.	ASSETS OF WIFE ON DATE OF THIS MARRIAGE	H'S VALUE	W'S VALUE
1.	_____	\$_____	\$_____
2.	_____	\$_____	\$_____
3.	_____	\$_____	\$_____
4.	_____	\$_____	\$_____
5.	_____	\$_____	\$_____

M.	DEBTS OF HUSBAND ON DATE OF THIS MARRIAGE	H'S VALUE	W'S VALUE
1.	_____	\$_____	\$_____
2.	_____	\$_____	\$_____
3.	_____	\$_____	\$_____
4.	_____	\$_____	\$_____
5.	_____	\$_____	\$_____

N.	DEBTS OF WIFE ON DATE OF THIS MARRIAGE	H'S VALUE	W'S VALUE
1.	_____	\$_____	\$_____
2.	_____	\$_____	\$_____
3.	_____	\$_____	\$_____
4.	_____	\$_____	\$_____
5.	_____	\$_____	\$_____

O.	GIFTS OR INHERITANCES RECEIVED BY HUSBAND SINCE DATE OF MARRIAGE (NOT INCLUDING GIFTS FROM WIFE)	H'S VALUE	W'S VALUE
1.	_____	\$_____	\$_____
2.	_____	\$_____	\$_____
3.	_____	\$_____	\$_____

**P. GIFTS OR INHERITANCES RECEIVED  
BY WIFE SINCE DATE OF  
MARRIAGE (NOT INCLUDING GIFTS FROM HUSBAND)**

		<b>H'S VALUE</b>	<b>W'S VALUE</b>
1.	_____	\$_____	\$_____
2.	_____	\$_____	\$_____
3.	_____	\$_____	\$_____

STATE OF NEBRASKA       )  
  ) ss.  
COUNTY OF                )

The undersigned (petitioner/respondent), having been duly sworn, states that the above contains a complete and accurate list of all property in which either party has any interest and a complete and accurate list of his or her debts.

\_\_\_\_\_  
Signature of Party

Subscribed and sworn before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public